

Message Text

LIMITED OFFICIAL USE

PAGE 01 PORT O 02213 311840Z
ACTION DLOS-09

INFO OCT-01 ARA-10 ISO-00 ACDA-12 AGRE-00 AID-05
CEA-01 CEQ-01 CG-00 CIAE-00 COME-00 DODE-00
DOTE-00 EB-08 EPA-01 SOE-02 DOE-15 FMC-01 TRSE-00
H-01 INR-10 INT-05 IO-13 JUSE-00 L-03 NSAE-00
NSC-05 NSF-01 OES-09 OMB-01 PA-01 PM-05 SP-02
SS-15 ICA-11 AF-10 EA-10 EUR-12 NEA-10 /190 W
-----025782 010556Z /11

R 311830Z JUL 78
FM AMEMBASSY PORT OF SPAIN
TO SECSTATE WASHDC 2748

LIMITED OFFICIAL USE PORT OF SPAIN 02213

E. O. 11652: N/A
TAGS: PLOS
SUBJECT: LOS: RESUMED SEVENTH SESSION AND THE CONTINENTAL
SHELF.

REFERENCES: (A) STATE 188840; (B) PORT OF SPAIN 2212

1. FOLLOWING PER REF (B) IS TEXT OF AIDE MEMOIRE DELIVERED
TODAY TO MINEXTAFF PERM SEC BALLAH ON ABOVE SUBJECT. RE-
PORT OF PLANNED FOLLOW-ON DISCUSSION WILL BE PROVIDED.
2. BEGIN TEXT: AT THE RESUMED SEVENTH SESSION OF THE LAW
OF THE SEA NEGOTIATIONS BEGINNING AUGUST 21 IN NEW YORK ONE
OF THE MAJOR ISSUES TO BE DEALT WITH, AS THE GOVERNMENT OF
TRINIDAD AND TOBAGO IS AWARE, WILL BE THE DEFINITION OF
THE OUTER LIMIT OF THE CONTINENTAL SHELF WHERE IT EXTENDS
BEYOND 200 MILES. THIS MATTER, OF COURSE, IS ASSOCIATED
WITH THE RELATED QUESTION OF REVENUE SHARING AND THE RIGHTS
OF LANDLOCKED AND GEOGRAPHICALLY DISADVANTAGED STATES.

AS AMBASSADOR ELLIOT RICHARDSON STATED IN HIS LETTER OF
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 PORT O 02213 311840Z

JUNE 15, 1978, TO DR. LENNOX BALLAH, PERMANENT SECRETARY OF
THE MINISTRY OF EXTERNAL AFFAIRS, THE SO-CALLED IRISH
FORMULA FOR DEFINING THE SHELF WON CONSIDERABLE SUPPORT
PRIOR TO AND AT GENEVA. FURTHERMORE, A COMPROMISE ON A
REVENUE SHARING FORMULA FOR THE BENEFIT OF LESS DEVELOPED
COUNTRIES WAS NEARLY ACHIEVED, AND THERE APPEARED TO BE
SUBSTANTIALLY INCREASED LIKELIHOOD OF CONSENSUS ON THE

ISSUE OF THE RIGHT OF ACCESS OF LANDLOCKED AND GEOGRAPHICALLY DISADVANTAGED STATES TO FISH IN THE EXCLUSIVE ECONOMIC ZONES OF OTHER STATES IN THEIR REGION OR SUB-REGION.

THE UNITED STATES SUPPORTS THE PROPOSITION THAT ANY FORMULA FOR DEFINING THE MARGIN BEYOND 200 MILES MUST BE SCIENTIFICALLY SOUND, LEGALLY DEFENSIBLE, AND POLITICALLY REALISTIC. THE IRISH FORMULA MEETS ALL THREE OF THESE CRITERIA. AS THE RECENT SECRETARIAT STUDY ON THE CONTINENTAL MARGIN INDICATED, THE METHOD IS SCIENTIFICALLY SOUND. IT IS PERHAPS NOT AS SIMPLE AS ONE WOULD IDEALLY HOPE FOR BUT WE ARE DEALING WITH A RATHER COMPLICATED QUESTION AND HENCE A LESS THAN FULLY SIMPLE ANSWER IS REQUIRED. THE IRISH FORMULA IS LEGALLY DEFENSIBLE. AS A LEGAL MATTER, IT MORE PRECISELY DEFINES THE CONTINENTAL MARGIN THAN IS THE CASE IN EXISTING ARTICLE 76 OF THE ICNT. THE IRISH FORMULA IS POLITICALLY REALISTIC. IT ACCOMMODATES THE LEGITIMATE ASPIRATIONS OF THE BROAD MARGIN STATES, YET IT DOES NOT RECOGNIZE THEIR JURISDICTION OVER THE RESOURCES THAT MIGHT BE FOUND IN THE SO-CALLED LAST GRAIN OF SAND OF CONTINENTAL ORIGIN. IT DOES NOT IMPINGE UPON THE COMMON HERITAGE OF MANKIND. INDEED, AS SUGGESTED BY THE SECRETARIAT STUDY, IT HAS ALL THE ASPECTS OF A REALISTIC POLITICAL ACCOMMODATION.

THE IRISH FORMULA AS WELL AVOIDS THE VERY DANGEROUS FLAWS OF A STRAIGHT DISTANCE CRITERION WHICH IS UNRELATED TO NATURAL LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 PORT O 02213 311840Z

FEATURES. WHILE SUCH A PROPOSAL RELYING ON A STRAIGHT DISTANCE CRITERION CLEARLY HAS THE ADVANTAGE OF SIMPLICITY, IT RAISES SERIOUS QUESTIONS ABOUT THE EFFECT OF DRAWING AN ARBITRARY LINE ON THE SURFACE OF THE OCEAN AND POTENTIAL COASTAL STATE JURISDICTION IN THE WATER COLUMN BEYOND 200 MILES, WHICH IS IN THE INTEREST OF NO COUNTRY. IN ADDITION, A DISTANCE CRITERION UNRELATED TO NATURAL FEATURES WOULD NOT MEET THE INTERESTS OF MANY BROAD MARGIN STATES, BOTH DEVELOPED AND DEVELOPING, AND WOULD NOT FORM THE BASIS FOR CONSENSUS.

THERE MUST, OF COURSE, BE MEANINGFUL REVENUE SHARING FROM EXPLOITATION OF THE MINERAL RESOURCES BEYOND 200 MILES. IN THIS REGARD THERE IS A GENERAL UNDERSTANDING AT THE CONFERENCE THAT THIS REVENUE SHARING OBLIGATION MUST ON THE ONE HAND BE SUFFICIENT TO BE PART OF A MEANINGFUL ACCOMMODATION AND ON THE OTHER HAND BE REALISTIC ENOUGH SO AS NOT TO DISCOURAGE EXPLOITATION IN AREAS OFFSHORE. IN THIS REGARD A REASONABLE BALANCE WOULD INCLUDE REVENUE SHARING COMMENCING FIVE YEARS AFTER COMMERCIAL EXPLOITATION HAS BEGUN BASED UPON A VALUE OF THE PRODUCTION AT THE SITE WITH THE RATE INCREASING IN ONE PER CENT INCREMENTS UP TO AN AGREED MAXIMUM.

WHILE THE REVENUE SHARING OBLIGATION SHOULD APPLY TO ALL AREAS OF THE MARGIN SUBJECT TO COASTAL STATE RESOURCE JURISDICTION BEYOND 200 MILES, THERE MUST BE AGREED UPON SOME FORMULA WHEREBY AN ADJUSTMENT WOULD BE MADE IN THE DISTRIBUTION OF BENEFITS TO TAKE INTO ACCOUNT THE CONTRIBUTIONS MADE BY DEVELOPING COUNTRIES WHICH EXPLOITED THE RESOURCES OF THE MARGIN BEYOND 200 MILES.

THESE THREE ELEMENTS, IN THE VIEW OF THE UNITED STATES, SHOULD FORM THE BASIS FOR THE NEGOTIATIONS AND AGREEMENT AT THE RESUMED SESSION IN NEW YORK. END TEXT. O'MAHONY

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: CONTINENTAL SHELF, AIDE MEMOIRE
Control Number: n/a
Copy: SINGLE
Draft Date: 31 jul 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978PORTO02213
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D780314-0058
Format: TEL
From: PORT OF SPAIN
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t1978073/aaaaacjq.tel
Line Count: 127
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 06988a6e-c288-dd11-92da-001cc4696bcc
Office: ACTION DLOS
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 78 STATE 188840, 12 PORT OF SPAIN 2212
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 30 mar 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 1915206
Secure: OPEN
Status: NATIVE
Subject: LOS: RESUMED SEVENTH SESSION AND THE CONTINENTAL SHELF.
TAGS: PLOS, PEPR, US, TD
To: STATE
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/06988a6e-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014